



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF
ENVIRONMENTAL
CLEANUP

September 24, 2013

Ms. Margaret Kirkpatrick
NW Natural Gas Co.
220 NW 2nd Avenue
Portland, Oregon 97209

Dear Ms. Kirkpatrick:

The purpose of this letter is to ensure the Lower Willamette Group and the EPA have a common understanding of the process for the revisions to and finalization of the remedial investigation (RI) report for the Portland Harbor Superfund Site and to document our agreed upon process.

Specifically, this letter provides an update to the letters I sent to you on April 1, 2013 and May 17, 2013, that described the review process for the second draft of the RI report. Since that time, representatives of the Lower Willamette Group and the EPA have discussed and agreed to several changes to the earlier proposals. This process is the same as provided to you on May 17, 2013, with two additions as noted in my email to you dated June 24, 2013, and our agreement at our August 28, 2013 meeting that no further changes are necessary. For ease of review, the changes since the May 17, 2013 letter are underlined.

The process for the EPA modification and comment and LWG dispute resolution on the second draft RI report is as follows:

For each section of the RI report, the EPA will make modifications and if needed additional comments to the text and provide comments on figures, tables, and related Appendices needing revision by the LWG. The EPA will provide each chapter to the LWG as it completes its review, modifications, and comments rather than hold all revisions until the EPA is done with the review of the entire RI report.

The EPA Project Managers, in coordination with the LWG Project Managers, maintain a working schedule to determine staffing and whether the project is keeping on track. The EPA Project Managers will notify LWG Project Managers of schedule modifications 7 calendar days in advance to ensure that parties are aware of changes to EPA's schedule for submitting revised chapters to the LWG, and the LWG schedule will be extended as well to provide a 30 calendar days to review and comment resolution period on each chapter of the RI. The RI schedule will be modified by the EPA to accommodate the schedule changes previously described and to add time if necessary to account for informal issue resolution to the senior managers or formal dispute resolution, as described below. This working schedule targets our agreed upon completion date for the RI in Spring 2014.

The LWG will have up to 30 calendar days to review each chapter and identify any errors or other issues on EPA's modifications and comments and resolve both the LWG's issues and EPA's comments with the EPA through an enhanced informal dispute process. Additional time for informal resolution of sections may be authorized by the EPA Project Managers if it is determined to be warranted based on the progress being made to resolve outstanding issues.

The EPA and LWG staff will meet at least once per section to discuss the LWG comments during the informal resolution period. If resolution of issues important to the LWG is not reached at the staff/project management level on each section, LWG can elevate those issues to senior management (both LWG and EPA) for resolution no later than, but preferably before the end of the 30-day review period.

The EPA and LWG agree that this process is an enhanced informal dispute resolution process to try to resolve issues quickly and not require formal dispute resolution per Section XVI of the AOC. If the Project Managers from the LWG and the EPA do not agree on an issue or issues, senior managers will attempt to reach resolution in 14 working days. In this instance, the LWG will provide a written statement of the disputed matter(s) to the EPA within 3 working days and the EPA will respond in writing within 3 working days, unless an extended timeframe is agreed to by the senior managers. The LWG and the EPA senior managers will meet to discuss the disputed matter(s) and endeavor to resolve them within the 14-day period unless an extended timeframe is agreed to. If there is resolution of the disputed matter(s), it will be documented in writing. The final redraft of the relevant RI section will incorporate the resolution consistent with the written resolution; if there is no resolution of the disputed matter(s), the LWG may invoke formal dispute on the issue(s) during the formal dispute process defined in the next paragraph.

The EPA and LWG will further agree that the time period to raise formal dispute to the ECL Office Director as provided in Section XVIII, Paragraph 1 of the AOC will be extended until 30 calendar days after all the EPA modifications and comments on all chapters of the RI Report have been provided to the LWG and the enhanced informal process has been conducted, if needed, on all chapters. The EPA and LWG agree that the 30-day period to raise a formal dispute will be triggered upon the EPA sending a letter with direction to incorporate all modifications and comments provided on the RI report, as modified by any changes agreed to between the Project Managers or informal dispute resolution agreements by senior managers. The letter transmitting the final changes required will supersede the comment letters sent by the EPA on the RI Report.

The formal dispute resolution process on any remaining issues will follow the formal dispute resolution process in the AOC Section XVIII, Paragraph 1. The LWG further agrees that no new issues regarding EPA comments on the RI will be raised in formal dispute that were not raised during the enhanced informal dispute process. The LWG may, however, invoke formal dispute on any new comments or changes, if any, contained in EPA's letter transmitting the final changes. The final LWG review will verify that all issues resolved on a section by section basis are reflected and are consistently applied throughout the document, and will include a quality assurance review of the document.

The due date for the LWG to provide a revised draft final RI Report will be 30 calendar days after receipt of the EPA letter described above. Per Section XVIII, Paragraph 2, the LWG will proceed to incorporate and revise all sections and chapters of the RI Report that is not subject to formal dispute. It is EPA's expectation that the LWG will be incorporating our modifications and working on addressing all of EPA's comments as they receive them, particularly, changes to tables, figures and Appendices, so we do not expect there will be a need for an extension beyond the 30-day timeframe for a draft Final RI Report, which is expected to be delivered in electronic format only. If the LWG provides any early version of any sections incorporating EPA's comments prior to the scheduled date for the EPA to provide its Section 10 comments to the LWG, the EPA will review and provide comments back to the LWG prior to sending the final letter directing incorporation of EPA's comments (as modified) to ensure that EPA's comments have been adequately incorporated into the final document.

If the EPA or the LWG determine that this process is not facilitating the revision of the RI report in a more timely way than if the EPA were to provide all its modifications and comments at once at the end of its review, this issue will be raised to the senior management group for discussion. The EPA will then make a determination as to how to proceed in order to complete the work required under the terms of the AOC.

I believe this captured our agreements, and request written confirmation from the LWG that the process and extensions of time for informal and formal dispute on EPA's modifications and comments are acceptable, and that modification to the AOC is not required for implementation of this enhanced review process.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Cohen", written in dark ink.

Lori Cohen, Associate Director
Office of Environmental Cleanup

Enclosure

cc: Mr. Tom Imeson
Mr. Jack Isselmann
Mr. Doug Loutzenhiser
Mr. Dean Marriott